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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,800	06/27/2001	Robert Andrew Byers JR.	1535-001	9649

7590 10/06/2004

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EXAMINER

THEIN, MARIA TERESA T

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/892,800

Applicant(s)

BYERS ET AL.

Examiner

Marissa Thein

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

The drawings filed on June 27, 2001 are acceptable.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-14 are rejected under 35 U.S.C. 101 because the method claims as presented do not claim a technological basis in the body of the claim. Without a claimed basis, the claim may be interpreted in an alternative as involving no more than a manipulation of an abstract idea and therefore non-statutory under 35 U.S.C. 101. For example in claim 1, the body of the claim such as the “identifying....”, the “transmitting.....”, etc. is not in the technological arts. There is no structural or functional interrelationship with these method steps. Therefore, the claim is nothing more than an abstract idea, which is not tied to any technological art and is not a useful art. *Ex parte Bowman*, 61 USPQ2d 1665, 1671 (BD, Pats. App. & Inter. 2001). See MPEP 2106 IV 2(b)

Claims 9-11 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 9-11 have no connection to the technological arts. The phrase “receiving a signal” has no connection to the technological arts that enables a useful, concrete, tangible result. A signal per se is not the type of subject matter that is considered statutory. The “receiving a signal” is interpreted as an abstract arrangement that is transmitted or is a transmission in transit.

Art Unit: 3625

Therefore, the claims are directed towards non-statutory subject matter. To overcome this rejection the Examiner recommends the Applicant to amend the claims to better clarify what is being performed to the computer.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 9-19, 23-33 and 37-42 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,970,475 to Barnes et al.

Regarding claim 1, Barnes discloses a method for selling products over an electronic network, the method comprising the steps of:

identifying a user (see at least col. 6, lines 38-40; col. 6, lines 45-48);

transmitting a user specific order entry form, the order entry form comprising at least one user specific product, a user specific price for the at least one product and a quantity entry field (see at least col. 6, lines 54-65; col. 9, lines 33-35; col. 9, lines 51-54; col. 19, lines 56-58)

receiving a quantity of at least one product entered into the quantity entry field by the user (see at least col. 18, lines 42-44; col. 21, lines 48-50);

transmitting a shopping cart comprising each of the at least one product selected by the user (see at least col. 18, lines 45-54; col. 22, lines 46-54; Figure 11; and

Art Unit: 3625

receiving an instruction from the user to process an order (see at least col. 22, lines 46-61; Figure 11).

Regarding claims 2-5, Barnes discloses the user specific entry form that further comprises an internal part number associated with at least one previously ordered product (see at least Ref. no. 133, Figure 11; col. 22, lines 48-49); transmitting a user specific order template, the order template further comprising at least one previously ordered product (see at least Figures 11-12; col. 22, lines 46-53); transmitting a user specific order template that further comprises a new product entry field (see at least Figures 11-12; col. 22, lines 46-53); a user specific order template, the order template further comprising at least one previously quoted product (see at least Figures 11-12; col. 22, lines 46-53).

Regarding claims 9-11, Barnes discloses an icon having a link to a product information order entry form; an icon having a link to a peer review form; and an icon having a link to a product protocol form (see at least col. 22, line 46-col. 23, line 22; Figures 9, 11-13).

Regarding claims 12-14, Barnes discloses sort filed; transmitting a payment option form and receiving an instruction from the user to utilize a specified payment option; and transmitting a facility option form and receiving an instruction from the user to utilized a specified facility option (see at least col. 8, lines 36-61; col. 18, lines 42-55; col. 23, lines 36-43; col. 25, lines 26-40).

Regarding claims 15-19, the claims recite a computer program product that are parallel in scope to claims 1-5 above and are rejected under similar grounds.

Art Unit: 3625

Regarding claims 23-28, the claims recite a computer program product that are parallel in scope to claims 9-14 above and are rejected under similar grounds.

Regarding claims 29-33, the claims recite a system that are parallel in scope to claims 1-5 above and are rejected under similar grounds.

Regarding claims 37-42, the claims recite a system that are parallel in scope to claims 9-14 above and are rejected under similar grounds.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-8, 20-22 and 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No.5,970,475 to Barnes et al in view of U.S. Patent No. 5,712,989 to Johnson et al.

Regarding claims 6-8, Barnes substantially discloses the claimed invention, however, Barnes does not disclose the specified time period and date range. Barnes discloses all users can view status and history of orders and generate reports (see at least Figures 11-12; col. 22, lines 46-53). Furthermore, Barnes discloses the Bank server can provide various reports on Customer transactions, where all ACH transactions have a full event history (see at least col. 18, lines 23-30). Moreover, Barnes discloses the customer or buyer has access to select audit existing reports or access "user-defined reports" at which the user can define in a format that is useful to

Art Unit: 3625

the user (see at least col. 23, lines 43-48). Johnson, on the other hand, teaches the specified time period and date range (see at least col. 36, lines 13-25).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Barnes to include the specified time period and date range, as taught by Johnson, in order to provide detailed records of purchaser orders issued by the customer (Johnson col. 36, lines 13-17).

Regarding claims 20-22, the claims recite a computer program product that are parallel in scope to claims 6-8 above and are rejected under similar grounds.

Regarding claims 34-36, the claims recite a system that are parallel in scope to claims 6-8 above and are rejected under similar grounds.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,026,376 to Kenney discloses an interactive electronic shopping system for making shopping more convenient.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Thein whose telephone number is 703-305-5246. The examiner can normally be reached on M-F 8:30-5:30.

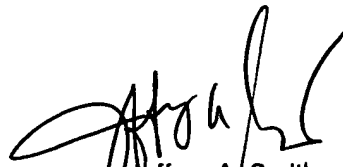
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Smith can be reached on 703-308-3588. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3625

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mtot

September 26, 2004



Jeffrey A. Smith
Primary Examiner